

a common special technical feature. Namely, Unity of Invention exists when claims are directed to a common special technical feature. This is discussed in detail in Chapter 1800 of the MPEP. Examples concerning Unity of Invention are given in the Annex to the MPEP, specifically Part 2 of Annex B to the Administrative Instructions Under the PCT.

The examiner opines in the Office Action that the “The inventions listed as Groups I-IV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, although they share the special technical feature, this special technical feature does not define a contribution over the prior art...” The examiner then alleges that the claims are variously obvious or anticipated by various references. See Paper No. 7, page 3, lines 4-11. The examiner concludes that the acknowledged special technical feature that links the claims, “collapsing impact force of the cavitation bubbles does not provide a contribution over the prior art.” See Paper No. 7 at lines 12-14. The examiner concludes from this that no general inventive concept exists.

However, Applicants note that unity of invention has to be first considered in relation to the independent claims. Further, the alleged reasons set forth by the examiner is backwards: the examiner cannot show lack of contribution over the prior art based on rejections that have not been formally stated. This is an a posteriori lack of unity, and the examiner cannot make this until a rejection of the claims is made. Still further, even if there is unity of invention, the dependent claims come back in if or when the independent claim avoids the prior art. See Annex B, discussed above. ✓

Still further, as the examiner alleges in Paper No. 7, the application of various references to the various groupings of claims overlap! That is, claims 1 and 6 with claims 23-25 refer to the same reference. Group I includes claims 1, 6 and 15, yet claim 15 would appear to be rejected by a different reference. Claims 2-5, 14 and 15 span Groups I, II and III. Accordingly, the examiner has clearly demonstrated unity of invention.

Accordingly, as the Examiner has not shown how the acknowledged special technical feature linking the claims does not rise to the level of a single general inventive concept, and that this acknowledgment contradicts the statement by the examiner at paragraph 2, first 3 lines (“they lack the same or corresponding special technical features”), and for all the reasons discussed above, this restriction requirement alleging lack of unity is improper, and must be withdrawn.

Applicants also wish to point out to the examiner that the International Search Report indicated that there is Unity of Invention. While the examiner is not required to accept the determinations of this report, Applicants do ask that the examiner consider that another examiner has determined that there is Unity of Invention present.

Furthermore, it is respectfully submitted that the subject matter of all the claims is sufficiently related that a thorough search for the subject matter of any one claim would encompass a search for the subject matter of the remaining claims. This is evidenced by the International Search Report. Thus, it is respectfully submitted that the search and examination of the entire application could be made without serious burden. See MPEP §803 in which it is stated that "if the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions."

It is respectfully submitted that this policy should apply in the present application in order to avoid unnecessary delay and expense to Applicants and duplicative examination by the Patent Office.

Applicants, of course, reserve the right to file a divisional application covering the subject matter of the non-elected groups.

Receipt of the initial Office Action on the merits is awaited.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013.

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Respectfully submitted,

By 

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